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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture
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Summary record of the 1306th meeting
Held at the Palais Wilson, Geneva, on Thursday, 30 April 2015, at 10 a.m.

Chairperson: Mr. Grossman

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Fifth periodic report of Colombia (CAT/C/COL/5; CAT/C/COL/Q/5; HRI/CORE/1/Add.56/Rev.1)

1. *At the invitation of the Chairperson, the delegation of Colombia took places at the Committee table.*

2. **Ms. Abadía Cubillos** (Colombia), introducing her country's fifth periodic report (CAT/C/COL/5), said that Colombia had changed greatly over the past four years and that considerable efforts had been made to put an end to the half century of internal armed conflict. Her Government was firmly committed to the Convention and had introduced regular training programmes on the prohibition of torture for law enforcement personnel and State officials and wide-ranging legislative provisions to protect the right to life and physical integrity of its citizens. It had also adopted a series of measures to identify and investigate cases of torture and provide appropriate support and redress for victims, including the adoption of the Victims and Land Restitution Act which to date had provided reparations for around 500,000 victims of the internal armed conflict. In addition, there had been a number of legislative initiatives designed to improve access to justice and conditions of detention as part of ongoing efforts to strengthen the judicial and prison systems, notably Act No. 1709 of 2014 establishing the Prison Monitoring Commission and the introduction of the National Health Fund for Persons Deprived of their Liberty. In addition, the budget allocated to the judicial branch in 2014 had been increased by more than 25 per cent in comparison to previous years. The Ministry of Justice and the Attorney General had drafted a bill to limit the use of pretrial detention which they had put before parliament in October 2014 and a set of guidelines had been developed to ensure that the human rights of persons deprived of their liberty were upheld. Between 2013 and 2014, the Government had invested some US$ 118 million to strengthen the national prison system and provide an additional 11,350 prison places. The Attorney General's Office had also been restructured pursuant to Act No. 1654 of 2013 so as to enhance its capacity and ensure that it could discharge its legal and constitutional functions effectively. Some 1.85 billion pesos had been invested between 2014 and 2016 in order to create 3,500 additional prosecutor and criminal police posts. Efforts had also been made to strengthen the work of the Institute of Forensic Medicine and promote the use of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) and the Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions (the Minnesota Protocol) for suspected cases of torture and ill-treatment. The talks in Havana aimed at ending the decades-long internal armed conflict represented an important step towards peace. The National Development Plan aimed to promote peace, equality and education and to provide comprehensive protection of the rights of all citizens, including the most vulnerable members of society.

3. **Mr. Modvig** (Country Rapporteur), noting the two different definitions of torture in the Criminal Code, asked how many convictions for torture had been handed down during the reporting period and what type of punishments had been imposed. He also wished to know whether there was a statute of limitations for the offence of torture in national legislation and the degree to which cruel, inhuman or degrading treatment was defined as an offence under the Criminal Code. Noting that the right of detainees to communicate with their relatives and their lawyer was regulated by the internal rules of each prison facility as well as in accordance with their security category, he requested clarification on whether such rules applied to persons held in police custody, whether all persons deprived of their

liberty had the right to be examined by an independent doctor upon request, and whether police officers and prison guards afforded those basic rights to detainees.

4. He expressed concern at the Government's recent decision to define demonstrations as an offence and requested information on the number of arrests made in that connection during the reporting period as well as the means of force used by law enforcement officers pursuant to the guidelines on preventive detention. As to the endemic levels of sexual violence against women and children, he asked what steps had been taken to prevent children performing informal functions for armed groups which resulted in their ill-treatment or abuse and to protect vulnerable victims of the internal armed conflict and internal displacement. He also wished to know what protection was provided to the lesbian, gay, bisexual, transgender and intersex (LGBTI) community in the light of the high number of attacks and acts of torture committed against them.

5. In relation to the national prison system, he asked what steps had been taken to address the concerns voiced by the Constitutional Court and numerous international bodies regarding the dire conditions of detention, severe levels of overcrowding and lack of access to health-care facilities. In particular, he wished to know what measures had been adopted to provide separate detention facilities for women detainees. He also requested further information on the number and causes of deaths of detainees and the procedures in place for independently investigating those deaths. In addition, he wished to know what medical examinations were conducted before detainees with psychosocial disabilities were placed in punishment cells or solitary confinement and whether the State party collected data on the use of those forms of imprisonment. In that connection, he enquired what efforts had been made to address the limited access of detainees to independent complaints mechanisms. He also asked whether the State party intended to ratify the Optional Protocol to the Convention against Torture and recognize the Committee's competence to receive individual complaints pursuant to article 22 of the Convention. In regard to the Early Warning System, he requested additional information on the number and type of human rights violations identified by the system and the outcome of the investigations into those cases. He also asked why the number of persons in need of extraordinary protection had doubled from 2012 to 2013 and whether there were links between that system and the system responsible for investigating offences through the Attorney General's Office.

6. As to reports of mass arrests by the military, he requested further information on the criteria for involving the military in criminal cases and on the justification for doing so in each case of mass arrest. He also wished to know whether military officers had received training on the prohibition of torture and the basic safeguards that should be made available to all persons deprived of their liberty. The delegation's comments on claims that the military had arbitrarily detained young men and forcibly conscripted them into the army would also be appreciated. In respect of enforced disappearance, he asked how many cases had been identified, prosecuted and punished and what steps had been taken to eradicate the practice. He stressed that the widespread pattern of extrajudicial killings of civilians, which had subsequently been described by the security forces as combat casualties, could also be considered as a form of enforced disappearance and questioned the delay in implementing Act No. 1408 to Respect, Locate and Identify Victims of Enforced Disappearance adopted in 2010. He also requested clarification on the figures presented in the report regarding the National Protection Unit's urgent search mechanism performance and on the number and duration of protective measures granted to relatives of disappeared persons. In respect of illegal armed groups, he wished to know what steps had been taken to tackle de facto impunity and bring members of demobilized paramilitaries to justice for the commission of acts of torture. He also asked what measures had been adopted to provide effective protection against reprisals and threats for judges and whether data were collected on the type and frequency of threats directed against them.

7. Concerning the high rate of sexual violence in Colombia, he asked whether national prevention measures had been established to reduce ill-treatment and abuse directed against particularly vulnerable groups of society, such as women and children, and whether redress and compensation were provided on a systematic basis to victims. In particular, he would like further information on the specific goals of the Life Free from Violence programme and specifically whether all forms of gender-based violence against women would be included. As to the database established by the Attorney General's Office on cases of sexual violence in the context of the armed conflict, he wished to know how many cases had been reported per year and how many cases had subsequently been investigated, prosecuted and punished. In relation to human trafficking, he asked whether the number of reported cases accurately reflected the scale of the issue in the State party and whether the State party intended to improve human trafficking and reporting mechanisms and guarantee prompt and impartial investigations into all cases.

8. **Ms. Belmir** (Country Rapporteur) asked what training had been provided on the prohibition of torture and the provisions of the Convention for judges and magistrates. She also wished to know what steps had been taken to monitor the training provided to police officers and ensure that all law enforcement personnel, civil or military, medical personnel, public officials and other persons involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment were fully aware of the Istanbul Protocol. The delegation's comments on alleged mass arrests by the military and substandard detention conditions in prisons would also be welcome. Similarly, she requested further information on the number of investigations into cases of torture as well as the number of prosecutions, convictions and punishments. Noting the alleged interference in ordinary criminal cases by military courts, she asked what steps had been taken to ensure the independence of the criminal courts and to ensure that military courts ruled solely on military cases. As to extrajudicial killings of civilians committed by demobilized paramilitary groups, she wished to know what efforts the State party had made to conduct independent investigations into the killings and punish the perpetrators.

9. She would appreciate reassurance from the delegation that the High Council of the Judiciary would be allowed to play its role and would not be abolished. Further information would be welcome on the reports of extreme and sometimes fatal police brutality against demonstrators; inquiries had allegedly not been conducted in many cases, while other cases had resulted in only disciplinary or minimal criminal sanctions. Although information from the State party indicated that the number of complaints submitted alleging torture was decreasing, those figures did not take account of torture committed by illegal armed groups. She asked for clarification on the reports of collusion between those armed groups and the State party authorities in respect of extrajudicial executions, attacks on women, children and minority groups and the recruitment of children. She would welcome an explanation of the reasoning behind the extradition of 18 persons from Colombia to the United States of America for trial for offences committed in Colombia. Further information would also be appreciated on the redress offered to those who had been deprived of their land during the armed conflict.

10. **Mr. Bruni**, noting the Government's efforts between 2011 and 2014 to reduce prison overcrowding, said that information pertaining to January 2015 received from the National Prisons Institute indicated that not enough had yet been done. The system as a whole was over capacity by 50 per cent, with one prison holding nearly three times the number of prisoners it had been built for, and the situation was still deteriorating. The prison employees' union had decided not to allow any new prisoners to be admitted to the country's four biggest prisons. The Constitutional Court had demanded an end to the arbitrary abuse of prisoners and the establishment of respectful conditions by October 2015. He asked what the authorities were planning to do to address the issue and requested further information on conditions in the prisons of Riohacha, Santa Marta, Magangue,

Villahermosa, Caloto, La Paz, Bosque de Baranquilla, Villa Ines and Anayancy. Information would also be welcome on the 1993 bill to remove solitary confinement as a punishment in prisons, which had been awaiting approval in 2013. Lastly, had the Government considered ratifying the Optional Protocol to the Convention against Torture?

11. **Mr. Gaye**, referring to article 303, paragraph 4, of the Code of Criminal Procedure on the right of persons arrested to appoint and to meet with a lawyer of their choice, said that the words "without delay" were not specific enough and should be amended to ensure that detainees had access to a lawyer from the very beginning of their detention. An answer would be appreciated to the question raised in the list of issues prior to reporting regarding the number of cases of refoulement, extradition and expulsion carried out by the State party during the reporting period through the acceptance of diplomatic assurances or the equivalent thereof, as well as an analysis of the State party's fulfilment of the obligation of non-refoulement under article 3 of the Convention. Information would also be welcome on the State party's approach to universal jurisdiction in respect of cases of torture.

12. **Mr. Domah** said that the number of persons held in pretrial detention was alarmingly high. The delegation should explain whether those persons had not been charged, how their human rights were respected during detention and who decided, and on what grounds, that they should be detained. Were objective facts used as the basis to link members of criminal organizations to the commission of serious offences and at what point in the proceedings was that done? He would welcome information on the evidence against the 20 per cent of pretrial detainees who pleaded guilty, particularly whether it consisted of more than the detainee's confession, and what the State party did to protect itself against allegations of torture. More information would also be welcome on the 1994 case that had been dismissed by the courts due to the introduction of evidence or testimony obtained through torture or ill-treatment; were there no other such cases? Lastly, it would be interesting to learn whether any training was provided for officials on their rights and duties under the Convention.

13. **Ms. Gaer** said she would be grateful for information on the special representatives of the prosecutor's office established in military units, including on any oversight mechanism set up to guarantee their independence, and the number of cases and trials that had resulted, as well as their outcomes. Information would also be welcome on the measures taken, including new rules adopted, to guarantee the independence and safety of staff of the human rights units within the public prosecutor's office and whether any claims of pressure being put on them had been investigated. Had any military units been dispatched to ensure the safety of those staff?

14. She would like to know whether the reparations programme for victims addressed the need for holistic services and was available to all victims of torture, regardless of whether they had suffered in the context of the conflict. Reports indicated that human rights defenders were still being targeted, particularly by demobilized military groups; details on the measures adopted to protect human rights defenders and their families, any prosecutions of perpetrators and sanctions taken against officials who had accused the defenders of being enemies of the State should be provided.

15. **Mr. Zhang**, noting that close to half a million members of the Armed Forces had received training in international human rights instruments, said he would appreciate more information on who those trainees were, the methodology that was to be used to investigate human rights violations and the naval officers who were following postgraduate or specialized studies in international humanitarian law. Updated information should be provided on the 1994 case that had been dismissed because of evidence obtained through torture, together with details of the relevant provisions of criminal law.

16. **Ms. Pradhan-Malla** said she would appreciate information on the legal mechanisms set up to deal with the use of acid in attacks on women. In the context of sexual violence, she would like to know whether reparations for victims included the prosecution of perpetrators, what statutory time limits were attached to such crimes and what was being done to improve the poor recording of sexual violence against minors or to address the cultural barriers that discouraged reporting of such crimes. The delegation should also comment on the forced sterilization of persons with disabilities.

17. **Mr. Tugushi** said that trafficking in human beings was still a problem in the State party, particularly among internally displaced persons. It would be useful to learn whether funding was being increased to provide services for and promote identification of victims of trafficking, as well as to cooperate with NGOs in the area. Did the rehabilitation programme for victims of torture comply with the Committee's general comment No. 3, was its approach holistic and was it restricted to victims of the armed conflict?

18. **The Chairperson** said he would appreciate additional information on the case of two Venezuelan nationals who had been expelled to their country of origin because of their political activities in Colombia, raising the issue of compliance with article 3 of the Convention, which required a case-by-case approach to extraditions. The Committee was still receiving reports of threats against and attacks on human rights defenders in the country, as well as sexual violence against women and children, especially in the armed groups, and attacks on, including murders of, LGBTI persons. He asked the delegation to comment on the fact that no consent was required for the sterilization of persons with disabilities. The Constitutional Court had adopted a host of positive judicial decisions but an account of their practical implementation would be useful. The State party should also consider ratifying the Optional Protocol to the Convention. Lastly, he wished to know what the State party was doing to punish the perpetrators of enforced disappearances; while it clearly did not condone such crimes committed by paramilitary groups, it should take action to ensure that they were not repeated and the perpetrators were punished.

19. **Mr. Modvig**, welcoming the extension to the definition of a refugee that had been adopted, said it should, nevertheless, be modified to ensure that all asylum seekers had full access to asylum procedures, with their applications recorded and transmitted to the central authorities. In light of the broad range of victims of torture and ill-treatment, the Government had a particular responsibility to identify victims and provide redress, including rehabilitation. The current Psychosocial Assistance and Comprehensive Health-Care for Victims Programme did not address the physical consequences of torture; programmes should be developed in cooperation with NGOs to provide redress in line with the Committee's general comment No. 3.

20. **Ms. Belmir** said she would be grateful for additional information regarding compensation or the restitution of land for persons, particularly those of Afro-Colombian or indigenous origin, who had been displaced during the armed conflict.

21. **Ms. Gaer** said that reports had been received of abuses, including forced abortions, of girls travelling, some as soldiers, with armed rebel units. Recognizing the difficulty of extending justice in such circumstances, she asked whether the Government had been able to identify perpetrators, investigate cases or provide assistance to victims.

The meeting was suspended at noon and resumed at 12.10 p.m.

Meeting with the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture

22. **The Chairperson**, welcoming the Chairperson of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, said that the Fund was one of the fundamental pillars in the effort to combat torture and its effects.

23. **Mr. Bodnar** (United Nations Voluntary Fund for Victims of Torture) said that meetings between United Nations Voluntary Fund for Victims of Torture and the Committee had facilitated meaningful dialogue and knowledge exchange. The increasing number of displacements and crises around the world highlighted the need for greater cooperation and communication between the different United Nations mechanisms to combat torture and support victims.

24. The Fund had allocated financial support totalling more than US$ 6.3 million for 2015 to organizations helping 56,900 victims in 81 different countries. A further US$ 1 million had been earmarked for emergency grants occurring outside of the regular granting cycle.

25. At a recent public event, some 120 expert practitioners from around the world had shared their experiences of working in the field and underlined the importance of the Fund in ensuring that redress and rehabilitation services were accessible to victims. Noting that the Fund would mark its thirty-fifth anniversary in 2016, he said that it had supported many rehabilitation centres and helped to develop and share knowledge and best practices.

26. Although more than 150 States had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, torture continued to occur. The Fund had customarily received more applications for funding than it could satisfy. There was a paucity of redress and rehabilitation services provided by States parties themselves, despite their obligations under article 14 of the Convention. The Fund's Board of Trustees would therefore make every effort to disseminate the Committee's general comment No. 3 on the implementation of article 14 by States parties among its grantees, many of which, in turn, also provided information to the Committee during the reporting procedure.

27. Although the right to rehabilitation had been established in international law, civil society organizations had often been the sole providers and, in some countries, had faced reprisals owing to their activities. Many rehabilitation centres had been wholly reliant on the Fund for financing, for moral support and, in some cases, for their very existence. An association with the Fund could provide a degree of legitimacy and independence, and could help to raise the organization's profile in terms of visibility and fundraising.

28. He said that the Committee's efforts to systematically raise the issue of rehabilitation and redress with States parties were commendable and could help to secure future contributions from Member States. The Committee's insights could also prove helpful in terms of how the Fund distributed its limited resources.

29. Lastly, he said that he looked forward to continued cooperation and said that the Fund and the Committee would be issuing a joint statement to mark International Day in Support of Victims of Torture on 26 June 2015.

30. **Mr. Modvig**, referring to a previous discussion in October 2014, asked whether the Board of Trustees had given further thought to creating a model to assist States parties in meeting their obligations under article 14. A standardized approach could provide some assurance for victims who were reluctant to take up State-provided assistance.

31. Victims of torture had multiple, complex problems and a holistic approach to rehabilitation had been identified as the best solution. In that regard, he asked why the Fund provided financial assistance to projects that were narrower in scope.

32. Lastly, noting that one NGO appeared on the 2015 list of grantees five times, he asked if the Fund considered whether an organization had access to other funding before awarding a grant. Did the Fund prioritize organizations at risk of reprisal or in countries with little or no alternative financing?

33. **Mr. Bruni** said that, in view of the recent decision to provide emergency grants, and the time-sensitive nature of such situations, he wondered what mechanisms had been put in place to award such a grant and how quickly the Fund could respond to a request.

34. **Ms. Pradhan-Malla** said that there were multiple layers of complexity in the process of rehabilitating victims of torture and that rehabilitation centres for those tortured by State actors faced additional challenges. She wondered what the Fund could do to address the threats of violence and reprisals faced by human rights defenders and rehabilitation centres. How could threats be minimized to provide a confidential and secure environment for victims?

35. She said that it would also be useful to know how the Fund identified where rehabilitation centres were needed. Were decisions based on the human rights record of a country, or were they based solely on NGO applications?

36. **Ms. Gaer**, referring to paragraph 4 of the Fund's latest annual report (A/HRC/28/25), which stated that beneficiaries of assistance must be direct victims of torture or direct family members, said that she wished to know whether the Board had any plans to harmonize its admissibility criteria with the broader definition under general comment No. 3.

37. Noting that the Board had launched a "Donate now" button on its website, she enquired how many donations had been made and how much had been raised through that initiative. She had been surprised to hear that only 15 States had donated to the Fund. The Committee had previously asked States parties whether they had contributed, but had re-evaluated the appropriateness of a monitoring body making that type of enquiry. However, it would be entirely appropriate for the Fund to actively seek funding from States parties itself.

38. Lastly, she said that the Fund had customarily supported a very high proportion of requests and she had noted with interest that it was seeking to introduce a competitive system in order to meet demand more effectively. She wondered whether specific criteria had been defined to make the process more competitive or whether a more rigorous evaluation system was envisaged.

39. **Mr. Tugushi** said that at a recent workshop with the International Rehabilitation Council for Torture Victims, there had been discussions on drawing up a checklist to enable article 14 to be approached in a more systematic manner.

40. Referring to the Board's fundraising activities, he said that the economic crisis had probably had an impact on contributions to the Fund. He noted with interest the Board's modern approach to securing donations and wondered low it was working in practice.

41. **Mr. Bodnar** (United Nations Voluntary Fund for Victims of Torture) said that developing a template for redress and rehabilitation was problematic. The situation varied so greatly from country to country that it was difficult to establish a model for cooperation between States parties, NGOs and rehabilitation centres. Some States were entirely unaware of the need to provide such services, in spite of their obligations under article 14 of the Convention. Rather than creating a model, perhaps more forums for encouraging experts and Member States to brainstorm challenges and share knowledge were needed.

42. Turning to funding holistic rehabilitation versus more narrowly focused services, he said that the Board had customarily been limited by the proposals it received and the capacities of the requesting organizations. While those providing a comprehensive range of services scored more highly during the evaluation process, some had taken advantage of the system by supplying misleading information indicating that they provided holistic services. It was, however, standard procedure for the Fund to verify the services offered by an organization.

43. While there was no easy solution to minimizing threats against rehabilitation centres and human rights defenders, as a United Nations entity the Fund had a presence in countries where there was no other international financing. For example, in countries where international funding to NGOs had been restricted, United Nations funding was difficult for a State to refuse. Ensuring that organizations were secure and could operate freely was a task that might better be performed by other United Nations agencies or international monitoring organizations.

44. As to identifying the need for rehabilitation services, he said that the Board could not provide funding where it did not have a local partner and it was therefore limited by the applications it received. The Board did consider whether services already existed in a particular country or whether it was the first potential local partner. In an ideal world, every country would have at least one organization providing support to victims, but that was not the reality. The Board did take into account United Nations observations on a country's human rights situation when making its decisions.

45. In relation to emergency grants, he said that the Fund could not necessarily respond very quickly as that might impact on service quality on the ground. While checks always had to be made before awarding a grant, even in emergency situations, the process was aided by cooperation between the Board and field offices of the Office of the United Nations High Commissioner for Human Rights (OHCHR). In situations where a verified local partner had already been established, funds could be distributed more quickly.

46. Lastly, the "Donate now" button had yet to be fully promoted by OHCHR. Members of the Board did meet with State party delegations to discuss the Fund and encourage States parties to contribute.

The meeting rose at 1 p.m.